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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Sunday L. Messina,) CV 11-1498-PHX-JAT
10 Plaintiff(s),) **RULE 16 SCHEDULING ORDER**
11 v.)
12 Aetna Health Incorporated,)
13 Defendant(s).)
14 _____)
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16 On March 5, 2012, a Scheduling Conference was held in open Court pursuant to Rule
17 16(b) of the Federal Rules of Civil Procedure. Prior to the conference, the parties filed a
18 joint Rule 26(f) Proposed Case Management Plan. Pursuant to the terms of the Plan and the
19 representations made by the parties at the Scheduling Conference, all parties were ordered
20 to comply with the deadlines established in this Order.

21 **IT IS THEREFORE ORDERED** that the current provisions of the Federal Rules of
22 Civil Procedure shall apply to all proceedings concerning this case.

23 **IT IS ORDERED** that disclosure of the Administrative Record is due June 29, 2012.

24 **IT IS FURTHER ORDERED** that Plaintiff's Opening Brief regarding Judgment on
25 the Administrative Record is due August 31, 2012.

26 **IT IS FURTHER ORDERED** that Defendant's Response is due October 26, 2012.

27 **IT IS FURTHER ORDERED** that Plaintiff's Reply is due November 16, 2012.
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2 **IT IS FURTHER ORDERED** that, in the event of a discovery dispute, the parties
3 shall jointly contact the Court via conference call to request a telephonic conference
4 prior to filing any written discovery motions. The parties shall **not** contact the Court
5 regarding a discovery dispute unless they have been unable to resolve the dispute themselves
6 after personal consultation and sincere efforts to do so. The parties shall **not** file any written
7 materials related to a discovery dispute without express leave of Court. If the Court does
8 order written submissions, the movant shall include a statement certifying that counsel could
9 not satisfactorily resolve the matter after personal consultation and sincere efforts to do so
10 in accordance with Civil Local Rule 7.2(j).

11 **IT IS FURTHER ORDERED** that each party shall file no more than one motion
12 for summary judgment unless leave of Court is obtained. To obtain leave of Court, a party
13 shall file a motion setting forth the reasons justifying the filing of more than one summary
14 judgment motion and/or the reasons the party seeks leave to exceed the page limits set forth
15 in Civil Local Rule 7.2(e).

16 **IT IS FURTHER ORDERED** that all parties are hereby specifically admonished that
17 failure to respond to a motion by serving and filing an answering memorandum within the
18 time period expressly provided for in Civil Local Rule 7.2(c), 56.1(b) and/or 12.1(b) may be
19 deemed a consent to the denial or granting of the motion and the Court may dispose of the
20 motion summarily pursuant to Civil Local Rule 7.2(i).

21 **IT IS FURTHER ORDERED** that, the parties shall not notice oral argument on any
22 motion. Instead, a party desiring oral argument on a motion shall request argument by
23 placing **“Oral Argument Requested”** immediately below the title of such motion. The
24 Court will then issue a minute entry order scheduling the oral argument if it deems one
25 necessary.

26 Oral argument shall be scheduled at the request of a party on all motions to dismiss
27 and motions for summary judgment. On all other motions on which a party requests oral
28 argument as set forth above, the Court will determine whether oral argument is necessary.

1 The parties are reminded that obtaining oral argument is purely administrative. Accordingly,
2 regardless of a scheduled oral argument, the Court may, at any time, determine that oral
3 argument is unwarranted and rule on the motion without oral argument.

4 **IT IS FURTHER ORDERED** that any and all motions, requests, or stipulations for
5 extensions of time shall be made in accordance with the provisions of Civil Local Rule 7.3.
6 Notwithstanding this directive, however, if such motion, request, or stipulation seeks an
7 extension of time in which to file a memorandum in response or in reply to a motion
8 previously noticed for oral argument, under no circumstances shall such motion, request, or
9 stipulation seek an extension that would preclude the Court from having at least **thirty (30)**
10 **days** from the due date for the filing of the reply memorandum to consider the merits of the
11 underlying motion unless the motion, request, or stipulation also seeks to vacate and
12 reschedule the oral argument. Any motion, request, or stipulation that seeks both an
13 extension of time and the rescheduling of oral argument shall contain a memorandum of
14 points and authorities that demonstrates good cause for the Court to grant the requested
15 extension. The deadlines set forth in this Order are the deadlines by which a party must file
16 documents with the Court, in addition to serving opposing counsel, notwithstanding Federal
17 Rule of Civil Procedure 5(d).

18 **IT IS FURTHER ORDERED** that, if no dispositive motions are pending before the
19 Court after the dispositive motion deadline has passed, **Plaintiff(s) shall file and serve a**
20 **Notice of Readiness for Final Pretrial Conference within ten (10) days of the dispositive**
21 **motion deadline.**

22 **IT IS FURTHER ORDERED** that, if dispositive motions are pending before the
23 Court following the dispositive motions deadline, **Plaintiff(s) shall file and serve a Notice**
24 **of Readiness for Final Pretrial Conference within ten (10) days of the resolution of the**
25 **last dispositive motion.**¹

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27 ¹ Though the Court discourages the filing of motions for reconsideration, should a party
28 choose to file a motion for reconsideration of an interlocutory order, such party shall file
such motion under the standard set forth in *Motorola, Inc. v. J.B. Rogers Mechanical*

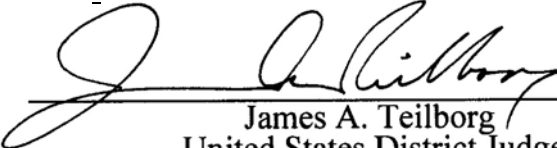
1 **IT IS FURTHER ORDERED** that the Order Setting Final Pretrial Conference will:
2 (1) set deadlines for the filing of and response to motions in limine; (2) instruct the parties
3 on their duties in preparing for the Final Pretrial Conference and for trial; and (3) include a
4 form for the completion of the parties' **joint** Proposed Final Pretrial Order.

5 **IT IS FURTHER ORDERED** that because the deadlines set forth herein will trigger
6 setting a trial date, the Court deems these deadlines to be the equivalent of a firm trial date.²

7 **IT IS FURTHER ORDERED** that the parties shall keep the Court informed
8 regarding the possibility of settlement and, should settlement be reached, the parties shall file
9 a Notice of Settlement with the Clerk of the Court.

10 **IT IS FURTHER ORDERED** that the Court views compliance with the provisions
11 of this Order as critical to its case management responsibilities and the responsibilities of the
12 parties under Rule 1 of the Federal Rules of Civil Procedure.

13 DATED this 8th day of March, 2012.

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19 James A. Teilborg
20 United States District Judge

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25 *Contractors, Inc.*, 215 F.R.D. 581, 586 (D. Ariz. 2003).

26 ² Additionally, it is not unusual for the Court to set a trial date within 60 days of the
27 resolution of the last pending dispositive motion (or within 30 days of the final pretrial
28 conference). Therefore, the parties can calculate approximately when their trial date will be
based on either the resolution of the last pending dispositive motion, or the setting of the
final pretrial conference.